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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,239	08/02/2000	Stephen S. Miller		8087

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EXAMINER

KNEPPER, DAVID D

ART UNIT	PAPER NUMBER
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2654

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DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/631,239

Applicant(s)

MILLER, STEPHEN S.

Examiner

David D. Knepper

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Applicant's correspondence filed on 8 May 2004 (paper #6) has been received and considered. Claims 1-22 are pending.

Title

2. The title is objected to because it is not descriptive of the invention. The current title is considered misleading since it implies a generic switch for controlling a computer having no relationship with speech recognition.

Drawings

3. The changes to figure 4 are approved.

Claims

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 2, 4, 8, 9, 10-14, 17-19, 21 and 22 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Holt (5,960,447).

As per claims 1, 2, 4, 8, 9, 10-14, 17-19, 21 and 22: Holt teaches a “command-mode of operation and a text-mode of operation” with his voice/speech recognition...interpreting the spoken word relative to commands versus dictated words (co. 13, lines 53-56 and figure 2). The use of a “switch” is explicitly taught in column 14, lines 3-18.

Holt indicates a variety of hardware switches are clearly anticipated alternatives: keyboard key(s), mouse button(s), foot pedal(s), wireless switch/controller, or remote controller... The particular type of switch used is not critical. These alternatives and the alternative interfaces that may be used (col. 14, lines 16-18) indicate that software is inherent for his combination of elements to properly function together.

7. Claims 3, 5-7, 15, 16 and 20 are rejected under 35 U.S.C. § 103 as being unpatentable over Holt (5,960,447).

Claim 3: Turning the microphone on only during operation is obvious in view of his teaching of well-known autolevel and automatic gain control to provide consistent recording levels (col. 13, lines 10-37). It is also noted that the mode selection is explicitly taught in col. 14, lines 6-7 as the switch function only when activated which would suggest that the input from the microphone would off when the switch is off.

Claims 5-7: It is noted that Holt does not explicitly teach “spring-controlled slide switch”

with multiple positions. However, Holt explicitly teaches that a wide variety of switches may be used and that the particular type is not critical (see above). The applicant admits that a person of ordinary skill would be able to modify a system for use with a slide switch (paper #6, received 8 May 2004) on page 9, line 13-14. Therefore, the teachings of Holt and the applicant's admission show that these and other types of switches would have been obvious.

Claims 15, 16: The use of "infrared" or "radio frequency" are obvious implementation of the wireless and/or remote controller teachings of Holt (col. 14, line 14-16) because one of ordinary skill in the art knows that these are common transmission methods that enable wireless connections and/or remote control functions to be transmitted and received.

Claim 20: "The system prompts the user to select the intended command" is an obvious part of the enrollment and/or correction process as suggested by Holt in column 12: enrollment process requires various keyboard and display screen interaction with the user (lines 1-2) and the user is allowed to make corrections (line 17). This ability is common to speech recognition as Holt suggests in column 4, line 22-24: the recognition engine 52 yields alternate possible words for an utterance.

Remarks

8. The applicants argue (paper #6) that the prior art first applied (Sneh and Firman) teach against the use of a manual switch. After reconsideration, the Examiner agrees and has used other art against the claims.

The prior art of record clearly shows that one of ordinary skill in the art would view the applicant's use of a manual switch to select between speech recognition modes for transcription

and command to be a step backwards in the art. The improvements of Sneh, for example show that the challenge in speech recognition systems is to find a way for a computer to accurately determine the difference automatically. The older prior art now applied (Holt) shows that relying on the user to make the selection manually would not be considered a step forward the speech or voice recognition art.

Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reynar (6,581,033) is cited to show that it is well known for the user to manually select command mode in order to make corrections when an error occurred during automatic selection and recognition. Reynar teaches that which manual selection is obvious for correcting mistakes that can occur in automatic speech recognition systems that process speech as both commands and for transcription into text.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
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or faxed to:

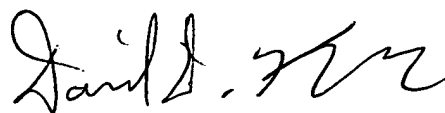
TC2600 Fax Center
(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (703) 305-9644. The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (703) 305-9645.

Any inquiry of a general nature or relating to the status of this application should be directed to customer service whose telephone number is (703) 306-0377.



David D. Knepper
Primary Examiner
Art Unit 2654
July 27, 2004